

**KCI News and Gift Concessionaire
Selection Process Audit**

December 2001

City Auditor's Office

City of Kansas City, Missouri

December 19, 2001

Honorable Mayor and Members of the City Council:

This audit of the KCI news and gift concessionaire selection process was initiated at the request of the City Council. The Aviation Department's process for recommending a news and gift concession agreement at the Kansas City International Airport has been disputed. Unsuccessful proposers, their supporters, and some Councilmembers have questioned the credibility of the selection process.

Departments have great flexibility in the process used to select concessionaires. Requests for proposals may be solicited or not, at the discretion of the department director. In this instance the Aviation Director chose to solicit new proposals for the KCI news and gift concessionaire contract rather than extend the current contract in order to obtain contract terms more favorable to the city.

The current city processes for the selection of a concessionaire are intentionally flexible. This flexibility allows departments to identify the methods and tools that they believe will permit evaluators to examine the entire proposal package and identify the proposer that is best for the city. The weighting of criteria, the use of a selection committee, even the use of an RFP process are only tools that are used to evaluate alternatives. These tools are not a substitute for the department director's judgement in recommending the best proposal to the City Council for consideration.

No evidence of violations of any applicable rules in the KCI concessionaire selection process were identified; however a number of factors exposed the process to claims of bias. The process used for proposal evaluation and selection was modified without formal notification of the proposers; decisions about weighting the criteria took place after the submittals were opened; the selection committee lacked diversity; and contacts between proposers, staff, and elected officials were not regulated. The City Manager and City Council should review the situations that created the perception of bias, and consider ways to eliminate these situations in the future.

A Memorandum of Understanding between the Human Relations and Aviation departments has the Aviation Department's DBE program manager reporting to senior Aviation Department management rather than to the Director of the Human Relations Department. Although the Director of Human

Relations reviewed and approved the contractor utilization plan for the recommended news and gift concessionaire, control and consistency in the city's human relations functions would be better served if city human relations managers report through the Director of Human Relations.

The draft audit report was sent to the city manager, Director of Aviation, and Director of Human Relations on December 17, 2001, for review. Management's written response is included as an appendix. We appreciate the courtesy and cooperation extended to us during this project by city staff, the proposers, the Aviation Department consultant, and members of the selection committee. The audit team for this project was Deborah Jenkins, Douglas Jones, Sharon Kingsbury, and Nancy Hunt.

Mark Funkhouser
City Auditor

KCI News and Gift Concessionaire Selection Process Audit

Table of Contents

Introduction	1
Objectives	1
Scope and Methodology	1
Background	1
Relevant Concession Events	2
KCI News and Gift Concessionaire RFP Process	3
Findings and Recommendations	5
Summary	5
There Are No Specific Rules for Concession RFPs	5
There Are No Formal Rules	6
Recent Council Action Establishes Flexibility	6
Aviation Staff Used the City’s Contract Guidebook	7
Several Elements of the Evaluation Process Reduced Credibility	7
Proposers Were Not Notified of Modifications to Published Process	8
Evaluation Weights Were Modified After Proposals Were Opened	8
Selection Committee Strengthened Process But Lacked Diversity	9
Lobbying Was Intense	9
Centralization of Human Relations Function Will Strengthen the Process	12
Recommendations	13
Appendices	15
Appendix A: KCI Concessionaire Selection Process Timeline	15
Appendix B: City Manager’s Response	23

Introduction

Objectives

This audit of the Kansas City International (KCI) Airport news and gift concessionaire selection process was conducted pursuant to Article II, Section 13 of the Charter of Kansas City, Missouri, which establishes the Office of the City Auditor and outlines the City Auditor's primary duties.

This audit was designed to answer the following question:

- Did the Aviation Department follow established rules and regulations in recommending the award of the airport news and gift concessionaire contract?

Scope and Methodology

This audit was conducted in accordance with government auditing standards. Audit methods included the following:

- Reviewing selected sections of the city's contract guidebook, ordinances, resolutions, and federal regulations.
- Reviewing the request for proposal and addenda, and communications and documentation related to the selection process.
- Interviewing city and Aviation Department staff, consultants, members of the selection committee, and proposers.

No information was omitted from this report because it was deemed privileged or confidential.

Background

The Aviation Department's process for recommending a news and gift concession contract at the Kansas City International Airport has been disputed. Testimony before the Aviation Committee regarding the recommendation to award the contract included allegations that the selection process was flawed.

The City Council, through Resolution 011649 passed on November 20, 2001, directed the City Auditor to review the Aviation Department's recommendation and report back to the Council by November 28, 2001. The City Auditor presented a scope statement to the Finance and Audit Committee on November 28, 2001, proposing a limited scope audit of the process with a release date of December 19, 2001. The committee directed the City Auditor to proceed with the proposed audit.

Relevant Concession Events

In October 1992, Paradies Shops entered into a 10-year concession¹ contract to provide general merchandise at Kansas City International Airport. The contract required minority or disadvantaged business participation and in October 1992, Paradies Shops selected Creative Concessions as their disadvantaged business enterprise² (DBE) partner.

As part of the KCI Terminal Improvement Project (TIP), space in the terminal buildings is being reconfigured which will alter concession spaces. Construction work on the project commenced in 2001 and is scheduled for completion in 2004. During the project, sections of each terminal will be closed for construction of new airline, food and beverage concession, and news and gift concession locations. Consultants developed an overall concession plan for the terminals.

The Aviation Department and their consultant negotiated with both the food and beverage concessionaire and the news and gift concessionaire about extending their contracts. Aviation extended the food and beverage concessionaire's contract because the cost of a buy-out was prohibitive. Because of the short time left on the news and gift concessionaire contract, the estimated cost of the buyout, and in order to potentially obtain more favorable contract terms for the city, Aviation decided to buy out the contract with Paradies Shops.

In May 2001, the City Council approved the termination agreement, which included an \$877,477 payment to Paradies Shops for early termination of their concession contract.³ A letter from Paradies Shops to the Aviation Department indicated they would forward \$158,906 of the buyout payment to Creative Concessions.

¹ An airport concession is a for-profit business enterprise, located on an airport, that is engaged in the sale of consumer goods or services to the public under an agreement with the city.

² A disadvantaged business enterprise is a for-profit small business concern that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

³ Ordinance 010711 May 17, 2001.

KCI News and Gift Concessionaire RFP Process

The Aviation Department's RFP, dated July 18, 2001, requested proposals from concessionaires to "lease, develop and operate the news, gift, and specialty retail concession at KCI." The due date for responses to the RFP was August 31, 2001. Copies of the RFPs were sent to firms in the airport concession industry, and notice of the RFP was sent to approximately 70 other firms known to be active in the industry, or who had expressed an interest in the concession contract. The RFP was also advertised in *The Kansas City Star*. (See Appendix A for a timeline of actions related to the award of this contract.)

The department conducted a mandatory pre-proposal meeting on July 31, 2001. Ten potential proposers attended the meeting. Aviation staff and consultants presented an overview of the Terminal Improvement Project, reviewed RFP and DBE program requirements, and answered questions. After the pre-proposal meeting, two addenda to the RFP were issued and additional information including draft tenant design standards, the department's tenant modification handbook, and instructions for the DBE compliance forms was sent to those who had attended the pre-proposal meeting.

In late August 2001, the Director of Aviation, with knowledge of the City Manager, modified the composition of the selection committee. Four members of the Kansas City business community would be asked to serve with the Director of Aviation to select a recommended proposer to the City Council.

The department received responses from HDS Retail, Hudson Group, Paradies Shops, and WHSmith. Aviation staff and consultants reviewed the proposals and prepared summaries for the selection committee, but did not make a recommendation to the Aviation Director.

Staff, consultants, and the selection committee met on September 28, 2001 for a briefing. Aviation staff and the consultants provided an overview of the Terminal Improvement Project, the planned retail program, the RFP, and the proposals received. There was also discussion about criteria weighting. The committee agreed to ask each proposer for a supplemental rent proposal in consideration of the events of September 11, 2001, which resulted in a sharp decline in air travel and uncertainty about future effects on the industry. Three of the original four proposers submitted supplemental rent proposals. WHSmith withdrew its proposal, citing economic uncertainty in the industry.

The selection committee conducted two interviews on October 4, 2001, and one on October 5, 2001. The interviews were designed to allow each respondent a total of two hours to set up the conference room, make a presentation, and respond to questions from the selection committee. The selection committee did not take a transcript or official notes. The consultants were present at all three interviews.

Following the final interview, the selection committee met to discuss the presentations. Each member of the committee separately scored the proposals in accordance with evaluation criteria and weighting. Aviation staff and the consultants tallied the results and it was determined that the committee had unanimously selected the same first and second-place proposers. The committee left the meeting in agreement that Paradies Shops would be recommended as the contract recipient to the City Council's Aviation Committee.

The Director of Aviation sent a memo to the members of the City Council's Aviation Committee on November 9, 2001, containing his recommendation that Paradies Shops be awarded the KCI news and gift concession contract. The director's recommendation and Ordinance 011575 to approve the concession contract were discussed in committee hearings on November 14 and 19, 2001. The City Council passed the ordinance on November 29, 2001, awarding the contract to Paradies Shops.

Findings and Recommendations

Summary

There are no formal city rules for concession RFPs. The city does not have written procedures describing the process that operating departments should use to develop concession contracts nor is an RFP process required. Although flexibility in contracting is important, departments could benefit from some guidance on concession RFP contracting.

No evidence of the violation of any applicable rules in the KCI concessionaire selection process was identified; however, unsuccessful proposers, their supporters, and some Councilmembers questioned the credibility of the process and recommendation. Establishing criteria weighting after proposals were opened; the change in composition of the selection committee that replaced staff with area business leaders; the homogeneous nature of the selection committee; and the intense and unregulated lobbying of staff and Councilmembers contribute to the perception that the decision was biased. The City Manager and City Council should look at the situations that created the perception of bias, and consider ways to eliminate these situations in the future.

The Aviation DBE program manager reports to Aviation Department management rather than through the Human Relations Department. The Director of Human Relations is responsible for the city's human relations administration and enforcement. He reviewed and approved the contractor utilization plan for the recommended news and gift concessionaire. However, control and consistency in the city's human relations functions would be better served if all DBE/WBE/MBE program managers reported through the Director of Human Relations.

There Are No Specific Rules for Concession RFPs

The city does not have specific rules describing the process that operating departments should use in developing concession contracts. Department directors may determine that it is in the city's best interest to solicit proposals, but an RFP process is not required.

The city's contract guidebook does not offer specific instructions for concession RFPs. Aviation staff used the contract guidebook sections for professional services as a reference source for developing and managing the RFP. By developing a specific guidebook section covering concession RFPs or incorporating concession RFP guidance in a related section, the city could provide assistance to contracting personnel.

There Are No Formal Rules

The city does not have any specific rules or procedures for concession Request For Proposals (RFP)⁴. The process is intended to be flexible so that the city can identify and obtain the "best" proposal. Although not required, a competitive process is one method of identifying and selecting contractors. An RFP process allows intangibles to be considered, not just money. If money is the only consideration, a bid process would be used. The RFP issued for the KCI news and gift concession specifically states:

It is the City's intent to award the concession offered by this RFP to the qualified and responsible respondent who provides the best overall proposal. The city is **not** required to select the proposal with the highest proposed Minimum Annual Guaranteed fees or the highest projected compensation to the City. *RFP July 18, 2001, Section C.6. – emphasis included in original.*

The flexible RFP process was established to protect the interests of the city. Almost everything in an RFP is negotiable before a contract is signed. Exceptions are rules related to affirmative action, tax clearance, and audit.

Recent Council Action Establishes Flexibility

The day after the concession RFP was issued, the City Council adopted Ordinance 010460, which made adjustments to city contracting procedures in the City Code as a part of the KC-Go initiative. Sections of this ordinance apply to concession contracts and RFPs, formalizing the flexibility the city has in obtaining the best proposal for the city. Section 2-1588 on concession contracts states:

⁴ A Request For Proposal is an invitation by the city for proposers to submit an offer, which may be subject to subsequent discussions and negotiations. It is not a request for a competitive bid. Submittal of a proposal does not create any right in or expectation to a contract with the city.

No public notice or proposals are required for concession contracts unless the commissioner of purchases and supplies solicits it. A director may determine that public notice and/or proposals are in the best interest of the city and in such case proposals shall be solicited by any reasonable method from a reasonable number of qualified sources and awarded to the best proposer as determined by the city.

The revised code also includes sections covering: Council approval of contracts involving more than \$100,000; authorizing the City Manager to develop contracting rules and regulations; allowing the City Manager to waive requirements in the RFP or city regulations if in the best interest of the city; and allowing the Council to waive any requirement imposed by ordinance if in the best interest of the city.

Aviation Staff Used the City's Contract Guidebook

Because the city's contract guidebook does not contain a section on concession RFPs, Aviation staff used the professional services section of the guidebook for assistance in developing the concession RFP. The department's consultants were relied upon to craft the project specifications based on their knowledge of industry standards. Aviation staff used the professional services boilerplate as a guide for incorporating city requirements, and asked the Law Department to review the RFP before it was issued.

Although the city's process is designed to be flexible, a certain amount of structure is needed to assist staff with developing and managing concession RFPs. The city's contract guidebook was established to develop a consistent process and language for city contracting. The guidebook provides boilerplates and checklists for use in preparing specific types of contracts and proposals. The guidebook provides no specific guidance for developing and managing concession RFPs.

To assist city staff with future RFPs and contracts for concessions, the City Manager should decide whether a new section should be added to the guidebook or the current professional services section should be expanded to explicitly address concession RFPs.

Several Elements of the Evaluation Process Reduced Credibility

While no rules were violated in the KCI concessionaire selection process, a number of factors exposed the process to claims of bias. The process used for proposal evaluation and selection was modified without

formal notification of the proposers. Decisions about weighting the criteria took place after the submittals were opened. The selection committee lacked diversity. In addition, contact between proposers, staff, and elected officials was extensive both before and after the selection committee made its decision.

Proposers Were Not Notified of Modifications to Published Process

Proposers were not formally notified of changes to the selection process. An addendum issued on August 16, 2001, in response to questions from proposers, provided general information on the selection process and stated that the selection committee would be made up of Aviation staff and consultants to the Aviation Department. After the addendum was issued, the selection process was modified and the proposers were not formally notified of the modification.

Modification of the process included a change in the roles of the Aviation staff and consultants to the Aviation Department. Staff and consultants reviewed the proposals and prepared summaries for use by the selection committee. But, they did not serve on the selection committee and did not make recommendations. Instead, the selection committee was made up of the Director of Aviation and four members of the business community with retail, real estate or hospitality industry experience. The Director of Aviation decided that the expertise they would bring to the process would be beneficial and that independent business leaders would be less susceptible to the lobbying efforts of proposers and their supporters.

When a description of the process is provided to proposers, it should be followed or modifications to the published process should be formally communicated to proposers.

Evaluation Weights Were Modified After Proposals Were Opened

The consultant proposed criteria weights on August 31, 2001. Staff and consultants modified the weights based on their discussions. At the selection committee briefing, the Law Department became aware of the weights, and advised that additional modifications to the criteria weights were needed. Although the staff did not participate in the selection process, the timing and change of weighting decisions permit the perception of favoritism.

There is no city requirement that weights or criteria be supplied to proposers. Proposers were not provided specific weights, however, general evaluation criteria were listed in the RFP and the submission

requirements also suggest areas to be evaluated. According to Unison-Maximus, Inc., the Aviation Department's consultant, providing the weights to proposers in advance is not recommended. Knowing the criteria weights may influence proposers to merely match criteria in their proposal, rather than submitting their best program plan. Proposals are more representative of what the proposer can do when they are not aware of the criteria weights in advance.

Weighting of criteria is an evaluation tool that is sometimes used to assist in the selection of a proposer. Weights are an attempt to objectively quantify the subjective judgments of those rating proposers and proposals. Weighted criteria can be used to help identify the best proposal, but should not be a substitute for judgement.

When weights are used to evaluate proposals, the weights assigned to each criterion should typically be established before proposals are opened. Modification of weights based on unanticipated factors should be permitted with documentation for the reasoning behind the adjustment maintained.

Selection Committee Strengthened Process But Lacked Diversity

The Director of Aviation, in consultation with the City Manager, appointed an outside committee of independent business leaders to ensure an impartial and unbiased examination of proposals and proposers. The need for the committee was identified before the proposals were due, however, the specific committee members were not appointed until later in the process. Time was limited, and potential conflicts of interest disqualified four candidates. Although an attempt was made to diversify the selection committee, the final composition lacked diversity. All of the committee members were white and male.

When citizens are needed to serve on city committees, departments should seek a diverse, but qualified panel.

Lobbying Was Intense

Aviation staff and City Councilmembers were the object of intense lobbying in connection with the selection of a news and gift concessionaire. The RFP identified an appropriate contact to whom proposers could direct questions; however, there was no prohibition or limit placed on those who might try to influence the selection process.

Intensive, unregulated contact between proposers, staff, and elected officials gives the appearance that the contract will be awarded not on the

basis of merit but rather on which vendor has the best lobbyists or the most political clout. Direct or indirect contacts for the purpose of influencing those responsible for making a selection and recommendation to the city should be regulated.

Contacts between staff and stakeholders should be regulated. There was no language in the RFP prohibiting proposers, or their attorneys, lobbyists, or representatives from contacting Aviation staff or others involved in the selection process. In the past, at least one city department used language to regulate contact after an RFP was issued. The language emphasized to proposers that contact with staff, beyond management assigned to gather information and respond to questions about the RFP, or management in charge of the affirmative action and M/WBE requirements, could be grounds for elimination from the selection process.

Language should be included in RFPs stating that contacting staff or others involved in the selection process, except the designated city contacts after the RFP is issued, is prohibited, and could result in the disqualification of the proposer.

Contact between proposers, their representatives, and elected officials should be regulated. After the issuance of the RFP and before the award of the contract, proposers and their attorneys and lobbyists contacted members of the City Council. Although the Aviation Department established a process for selecting a proposed concessionaire, the Aviation Director merely recommends a proposer. The City Council ultimately makes the final decision on who is awarded the contract.

To prevent the appearance of impropriety, some jurisdictions regulate the contacts of proposers and their attorneys, lobbyists, and other representatives, with elected officials. The City Council should consider regulating members' contacts with proposers and others seeking to do business with the city.

Phoenix Arizona Airport Contracting Policy

The City of Phoenix has a policy which does not preclude proposers from discussing submittals with one or more members of the City Council, provided meetings are scheduled through the City Clerk's Office, conducted in person, and posted as open meetings at least twenty-four hours prior to the scheduled meeting. The Phoenix City Clerk's posting includes details, such as the meeting participants and the subject matter, and invites the public and press to participate. Telephone contacts, other than to schedule a public meeting, are prohibited. Copies of other communications, via letter, FAX, or e-mail, are made available to the public, press, and other proposers.

City Councilmembers should use discretion when communicating with city staff. Elected officials can intimidate staff simply by expressing or leaving unguarded clues about their interest. Guidelines on contact between elected officials and staff have been outlined in *The Red Flag Commission Report*, and the *Report of the Council Ethics/Relations Committee*⁵. Both of these documents remind elected officials of their power and authority, and establish appropriate limits on communications between elected officials and staff. Elected officials may ask staff for information, but may not direct staff, unless acting as part of a governing body.

City Councilmembers were in contact with Aviation staff after the RFP was issued. Individual Councilmembers, who receive information from interest groups or business concerns, should not direct staff or influence the process after an RFP is issued. And, the confidentiality of information obtained or developed during the selection process should be maintained until the information is a public record.

Councilmembers and staff should maintain the confidentiality of information obtained or developed in connection with the selection process.

⁵ *Red Flag Commission Report*, Red Flag Commission, January 1997; *Report of the Council Ethics/Relations Committee*, Council Ethics/Relations Committee, February 1999.

Reports Addressing Limits on Council Behavior

Red Flag Commission Report, January 1997

The Red Flag Commission was established by Mayor Emanuel Cleaver II in response to a wave of public corruption prosecutions involving elected city officials. The Mayor asked the group of seven business and community leaders to examine the processes, procedures, and monitoring of contracts at City Hall. The resulting report made recommendations directed at improving contracting procedures, promoting open ethical government, and defining the proper relationship between the City Council and city staff.

Report of the Council Ethics/Relations Committee, February 1999

Mayor Emanuel Cleaver II established the Council Ethics/Relations Committee to develop guidance for the City Council on the proper interaction between the Council and city staff and to improve ethics in city government. The committee recommended that only the full Council should give direction, primarily through legislation to establish city policy. Operating outside formal channels subverts the legislative process and unfavorably affects all of city government, casting doubts on the ethics of the City Council and the entire city government.

Centralization of Human Relations Function Will Strengthen the Process

The Director of Human Relations reviewed and approved the selected proposer's contractor utilization plan for the Aviation Department's news and gift concessionaire. He found no violations of federal law or city ordinance related to the DBE participation.

City code places responsibility for the administration and enforcement of the city's human relations activities under the authority of the Director of the Human Relations Department. In 1996, a Memorandum of Understanding between the Human Relations and Aviation departments resulted in the Aviation Department's DBE program manager reporting to senior Aviation Department management rather than to the Director of the Human Relations Department.

Centralizing control of the human relations function would ensure consistent application and enforcement of federal rules governing the DBE process and clarify responsibilities outlined under federal rules. Federal rules regarding participation of DBEs in airport concessions

require development of participation goals and good faith efforts to achieve the stated goals. The *Red Flag Commission Report* notes that centralized control and uniformity of procedures are needed even though operations are decentralized.⁶

To ensure consistency and control, the City Manager should transfer the reporting responsibilities of Aviation human relations staff from the Aviation Department to the Human Relations Department.

Recommendations

1. The City Manager should either add a new section to the contract guidebook, or expand the current professional services section to explicitly address concession RFPs.
2. The City Manager should consider ways to enhance the credibility of the RFP evaluation process addressing: the timing and formalization of the evaluation process; when to use a selection committee and the diversity of membership; accurate and timely communication of the process to proposers; the regulation of contacts between proposers, their representatives and staff; and the confidentiality of information obtained or developed during the selection process.
3. The City Council should consider regulating members' contacts with proposers and others seeking to do business with the city.
4. The City Manager should reassign the Aviation human relations function to the Human Relations Department.

⁶ *Red Flag Commission Report*, January 1997, p. 3.

Appendix A

KCI Concessionaire Selection Process Timeline

Date	Event
10/6/92	City and Paradies Shops, Inc. enter into 10-year general merchandise concession agreement.
Fall 1999 to 4/01	Consultant (Unison-Maximus, Inc.) and Aviation staff meet with current prime concessionaires (Paradies Shops and Host International, Inc.) to discuss terminal improvement program including concessionaire roles, design layout, and retail concepts.
1/00	Creative Concessions and LJA Enterprises (the current news and gift and food and beverage DBEs) meet with Aviation to express concern about not being included in terminal improvement project consultant discussions.
1/00-4/01	Creative Concessions and LJA Enterprises included in consultant and Aviation meetings to discuss terminal improvement program, concessionaire roles, design layout, and retail concepts.
3/10/00	Aviation contracts with Unison-Maximus to evaluate whether to extend or buy out concessionaires' contracts and to negotiate with concessionaires, as needed.
4/8/00	An Assistant City Attorney, acting as an Acting Assistant Aviation Director, provides Paradies Shops with proposed location and construction date information in order that Paradies Shops can develop a proposal to extend their current contract.
4/17/00	Paradies Shops shares proposed locations of retail space, sales projections, and expected opening and closing dates of shops as a result of the terminal improvement program with their DBE, Creative Concessions.
2/01 to 7/01	Aviation has courtesy meetings with potential proposers on Terminal Improvement Project. 2/27 Select Services; 6/8 WHSmith; 6/21 Hudson Group.
3/2/01	Aviation DBE program manager establishes DBE goal for the news and gift concession contract at 18 percent.
4/25/01	Paradies Shops advises Aviation that Creative Concessions will receive \$158,906 of the termination agreement buyout rather than Airport's pro forma calculation of \$80,605.
5/17/01	City Council approves Ordinance 010711 authorizing termination agreement with Paradies Shops and payment of \$877,447.

Date	Event
7/18/01	Aviation issues RFP for Kansas City International Airport news, gift and specialty retail concession.
7/19/01	Distribution of RFPs and postcard notices of RFP opportunities begins.
7/22/01 & 7/29/01	RFP advertised in <i>The Kansas City Star</i> .
7/31/01	Aviation holds mandatory pre-proposal conference. Aviation staff and consultants provide information on Terminal Improvement Project, RFP, and concessions, and answer questions.
8/3/01	Aviation sends Addendum I to pre-proposal conference attendees.
8/13/01	Director of Human Relations certifies Threatt Nutrition Stores, Inc. as a bona fide D/MBE.
8/16/01	Aviation sends Addendum II to pre-proposal conference attendees.
Late 8/01	City Manager and Director of Aviation decide to form a selection committee of outside business people to assist the director in recommending a concessionaire.
8/28/01	Director of Human Relations certifies Creative Concessions, Inc. as a bona fide D/MBE.
8/31/01	Consultant proposes weights for selection criteria.
8/31/01	RFP responses due.
9/05/01- 9/17/01	Aviation staff reviews proposals and prepares summary comments on evaluation criteria.
9/19/01	Aviation notifies Hudson Group, HDS Retail, Paradies Shops, and WHSmith that they have been selected to be interviewed.
9/19/01 & 9/21/01	Aviation supplies selection committee with RFP, proposals, confidential synopsis matrix of proposer plan, rent, sales, DBE, experience and qualifications, references, management and staffing, marketing, and other information. Includes a request that all information be kept confidential.

Date	Event
9/26/01	Councilmember Teresa Loar requests and receives copies of the proposals.
9/27/01	Aviation develops recommended weighting.
9/27/01	Director of Aviation invites Aviation Committee Councilmembers to attend the presentations as observers.
9/28/01	Aviation requests prime proposers to submit supplemental rent proposal and pro forma by noon on October 3, 2001.
9/28/01	Selection committee briefing held. Aviation and consultant provide overview of Terminal Improvement Project, planned retail program, RFP, proposals, and criteria weights. City staff, Aviation, and consultant establish final criteria weightings.
10/1/01	Aviation sends prime proposers confirmation of interview time. Only prime and DBE may attend.
10/1/01	Aviation allows each proposer to bring an additional individual to the interview to present and discuss architectural details.
10/1/01	Aviation notifies selection committee that proposers may have learned of the committee members' identities and reemphasizes the confidential nature of the committee's duties.
10/2/01	Aviation sends proposed interview questions to selection committee.
10/3/01	WHSmith withdraws from consideration.
10/3/01	Aviation sends proposed interview questions and weighted evaluation criteria worksheet to selection committee members.
10/04/01- 10/05/01	Proposers make presentations to and are interviewed by the selection committee.
10/5/01	Selection committee members score and discuss interviews and proposals. Consultant tabulates scores.
10/15/01	Councilmember Terry Riley requests a copy of the proposals or alternatively, summary information. Copies provided 10/16.

Date	Event
10/16/01	Aviation Department properties specialist responsible for the concessionaire RFP requests Aviation Department DBE program manager to evaluate the Paradies Shops' contractor utilization plan.
10/17/01	Paradies Shops advises Aviation that the basic terms of their joint venture with Elliott Threatt have been agreed to.
10/22/01	Aviation Department DBE program manager approves contractor utilization plan.
10/22/01	Consultant provides summaries of reasoning for previously recommending the selection of a single concessionaire for news, gift and specialty retail to Aviation. Also provides a summary of the selection process.
10/31/01	Aviation DBE program manager wants clarification of the role that Threatt Nutrition Stores, Inc. will provide under the joint venture agreement with Paradies Shops.
10/31/01	Aviation Committee holds a closed session to discuss current Aviation issues pursuant to RSMo 610.021 (2) and (12).
11/1/01	Aviation notifies Paradies Shops that they are the recommended news and gift concessionaire.
11/1/01	Aviation notifies HDS Retail and Hudson Group that they are not the recommended news and gift concessionaire.
11/1/01	Paradies-Kansas City, LLC (Paradies Shops and Threatt Nutrition Stores) operating agreement becomes effective.
11/01	Attorneys representing two different proposers contact or attempt to contact a selection committee member.
11/05/01- 11/09/01	Aviation Department DBE program manager sends Paradies Shops contractor utilization plan to Director of Human Relations for review.
11/8/01	Ordinance 011575 authorizing the news, gift and specialty retail concession agreement for KCI with Paradies Shops introduced.
11/9/01	Aviation Director sends the Aviation Committee members a letter outlining the RFP, scoring, and selection processes and recommending that Paradies be awarded the news, gift, and specialty retail contract for KCI.

Date	Event
11/14/01	Testimony on Ordinance 011575 heard at the Aviation Committee meeting; ordinance held.
11/16/01	Creative Concessions requests and receives 10-year gross receipt history for current news and gift concessionaires from Aviation accounting.
11/16/01	Councilmember Terry Riley requests 10-year gross receipt history for current news and gift concessionaires from Aviation accounting. Copies provided 11/19.
11/19/01	Second reading and testimony for Ordinance 011575 before Aviation Committee. Committee recommends passage.
11/20/01	City Council passes resolution 011649 directing the City Auditor to review the Aviation Department's recommendation of a concessionaire.
11/28/01	City Auditor presents a scope statement for a limited scope audit to the Finance and Audit Committee.
11/29/01	City Council passes Ordinance 011575 authorizing concession agreement with Paradies Shops.

Appendix B

City Manager's Response



OFFICE OF THE CITY MANAGER

DATE: December 18, 2001

TO: Mark Funkhouser, City Auditor

FROM: Robert L. Collins, City Manager

SUBJECT: Response to KCI News and Gift Concessionaire Selection Process Audit

I appreciate the opportunity to respond to the draft report of the KCI News and Gift Concessionaire Selection Process Audit, listed below is our response:

Recommendation 1: Agree

The City Manager should either add a new section to the contract guidebook, or expand the current professional services section to explicitly address concession Request For Proposals.

Recommendation 2: Agree

The City Manager should consider ways to enhance the credibility of the RFP evaluation process addressing: the timing and formalization of the evaluation process; when to use a selection committee and the diversity of membership; accurate and timely communication of the process to proposers; and the regulation of contacts between proposers, their representatives and staff; and the confidentiality of information obtained or developed during the selection process.

These specific issues will be considered as part of the implementation of recommendation 1. It should be noted that in the absence of standard City contracting guidelines for these issues, the Aviation Department did take measures to ensure integrity in the selection of the news and gift concessionaire for the airport:

- As the Auditor mentions in his report, it is not required that concessions such as the news and gift operation be selected competitively. However, the Aviation Department chose to solicit proposals in an effort to obtain the best overall news and gift concessionaire for the airport.
- While the weights for the rating criteria were not finalized until after proposals were received, the weightings were not determined by the selection committee.
- Aviation Department staff that had reason to access the proposals were instructed to, and in fact did, maintain the confidentiality of the proposals, and the information contained therein, by securing them under lock and key.

KCI News and Gift Concessionaire Audit

December 18, 2001

Page #2

- The Aviation Department used a well-known airport consulting firm to facilitate development of a high-quality RFP designed to attract the leaders in the news and gift industry. That firm also provided analysis of respondent information and guidance through the selection process. The use of this firm also contributed to the impartiality of the RFP and selection process.

Recommendation 4: Agree

The City Manager should reassign the Aviation human relations function to the Human Relations Department.



Robert L. Collins

RLC:emm

cc: Russ Widmar, Aviation Department